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FAX NO. 7178494753

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**Fax**

To: Examiner Patrick Butler  
Art Unit 1732

From: Katie McCarthy, Patent Assistant

Fax: 571-273 8300

Pages: <sup>3</sup>/<sub>2</sub> (including coversheet)

Phone:

Date: March 19, 2007

Re: Response and Amendment Under  
C.F.R. §1.111  
Patent Application 10/722,830  
Ally Docket #TRU-2206

CC:

Examiner Butler:

Please find attached the following documents in connection with the above identified application:

- Transmittal Form (1 page);
- Extension of Time (1 page)
- Amendment (9 pages).

The total page of the amendment  
dated Feb. 20, 2007 is  
attached per your request.  
Thank you.

Best regards,

Katie McCarthy  
Patent Assistant

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If any part of this transmission failed or you have any questions, please call the Legal Department at (717) 849-4625, Katie McCarthy.

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**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/722,830

Examiner

PATRICK BUTLER

Applicant(s)

SUN ET AL.

Art Unit

1732

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 20 February 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

## THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
I don't have the last page

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

- Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
- Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Withdrawal of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

DIANNA MURPHY

571 272-1033

Legal Instruments Examiner (LIE), if applicable

Telephone No.

U.S. Patent and Trademark Office

Part of Paper No. 20070228

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Serial No.: 10/722,830  
Art Unit: 1732

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sleeping. The nightguard is flexible - the force required to deform (or deflect) the nightguard is much lower than the force required to deform (or deflect) nightguards made from Eclipse® clear baseplate material or Triad® Transheel™ material. As shown in Table 1 (page 14) of the application, at a temperature of 37°C (body temperature) the force required to deflect nightguards made from Eclipse® and Triad® materials was ten (10) times greater than the force required to deflect a nightguard made by the method of this invention. As further shown in Table 1, the flexural strength and flexural modulus of nightguards made from Eclipse® and Triad® materials decreased when the temperature was increased from 23°C to 37°C. However, this decrease in flex strength and modulus was relatively small as opposed to the decrease in flex strength and modulus of the nightguards made by the method of this invention. There is no disclosure or suggestion in the references of Tregillis; Bowen '821; Rusin; Bowen '551; Völkel; Reiners; or Tateosian, taken alone or in combination, for the presently claimed invention.

#### Conclusion

In summary, Applicant submits that claims 1, 3-4, and 6-16 as amended and new claims 25-26 are patentable and each of the Examiner's rejections and objections has been overcome. Accordingly, Applicant requests favorable consideration and allowance of claims 1, 3-4, 6-16, and 25-26.

The Commissioner is hereby authorized to charge any additional fee required in connection with the filing of this paper or credit any overpayment to Deposit Account No. 04-0780. Should there be any outstanding matter that needs to be resolved in the present application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Respectfully submitted,

DENTSPLY International Inc.

By: Daniel W. Sullivan

Daniel W. Sullivan  
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Date: FEBRUARY 20th, 2007

Attachments: Petition For Extension Of Time